IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

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WRIT PETITION Nos.15659, 15779, 15799, 15809,

15843, 15844 and 16330 of 2004

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W.P.No.15659 of 2004

Between:

1 The General Manager, South Central Railway,

Rail Nilayam, Secunderabad.
2 The Divisional Railway Manager, South Central Railway,
Secunderabad Division, Secunderabad.

..... PETITIONERS

AND

1 The Controlling Authority under the payment

Gratuity Act The Asst. Labour Commissioner (Central),

Hyderabad.
2 Sri Anthaiah Malkaiah, S/o Malkaiah,
R/o Narayanapur Village, Kothagadi Post,
Vikarabad (Mandal), Ranga Reddy District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or order more particularly in the nature of Writ of Certiorari calling for the records relating to the order in P.G. Application No. 48(40) /2002-E3/E5, dt. 23-7-2004 passed by the Hon'ble Court , Hyderabad and quash the same as illegal,

arbitrary, capricious, null and void .

Counsel for the Petitioner: MR.T.S.VENKATARAMANA

Counsel for the Respondent No.1: MR.A.RAJASHEKAR REDDY (ASST.SOLICITOR GEN.)

Counsel for the Respondent No.2: MR A.K.JAYAPRAKASH RAO

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W.P.No.15779 of 2004

Between:

1 The General Manager, South Central Railway,
Rail Nilayam, Secunderabad.
2 The Divisional Railway Manager, South Central Railway,
Secunderabad Division, Secunderabad. **..... PETITIONERS**

AND

1 The Controlling Authority under the payment of

Gratuity Act, The Asst.Labour Commissioner (Central)
Hyderabad.
2 Sri Sailoo Bheemaiah, s/o Bheemaiah,
r/o Chinchel Pet (Village & Post), Nawabpet

(Mandal), Ranga Reddy District. **.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order more particularly in the nature of writ of certiorari calling for the records relating to the order in P.G. Application No.48(31)/2002-E3/E5, dt.23-07-2004 passed by the Hon'ble Court, Hyderabad and quash the same as illegal, arbitrary, capricious, null and void.

Counsel for the Petitioner: MR.T.S.VENKATARAMANA

Counsel for the Respondent No.1: MR.A.RAJASHEKAR REDDY (ASST.SOLICITOR GEN.)

Counsel for the Respondent No.2: MR.A.K.JAYA PRAKASH RAO

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W.P.No.15799 of 2004

Between:

1 The General Manager, South Central Railway,

Rail Nilayam, Secunderabad
2 The Divisional Railway Manager, South Central Railway,
Secunderabad Division, Secunderabad

..... PETITIONERS

AND

1 The Controlling Authority under the Payment of

Gratuity Act, Asst.Labour Commissioner (Central), Hyderabad
2 Sri Durgaiah Ramaiah, S/o Ramaiah,
R/o Pulimamidi (Village & Post), Nawabpet Mandal,

Ranga Reddy District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of order more particularly in the nature of Writ of Certiorari calling for the records relating to the order in P.G. Application No.48(34)/2002-E3/E5, dated 23-07-2004 passed by the Hon'ble Court, Hyderabad and quash the same as illegal, arbitrary, capricious, null and void.

Counsel for the Petitioner: MR.T.S.VENKATARAMANA

Counsel for the Respondent No.1: MR.A.RAJASHEKAR REDDY (ASST.SOLICITOR GEN.)

Counsel for the Respondent No.2: MR. A.K.JAYAPRAKASH RAO

W.P.No.15809 of 2004

Between:

1 The General Manager, South Central Railway,
Rail Nilayam, Secunderabad.
2 The Divisional Railway Manager, South Central Railway,
Secunderabad Division, Secunderabad.

..... PETITIONERS

AND

1 The Controlling Authority Under the Payment of

Gratuity Act, the Asst. Labour Commissioner,
(Central) Hyderabad.
2 Sri Mallaiah Parmaiah, S/o. Parmaiah,
R/o. Pulimamidi (Village & Post) Nawabpet,

(Mandal), Ranga Reddy District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or order more particularly in the nature of Writ of Certiorari calling for the records relating to the order in P.G. Application No.48(33)/2002-E3/E5, dt. 23-07-2004 passed by the Hon'ble Court, Hyderabad and quash the same as illegal, arbitrary, capricious, null and void.

Counsel for the Petitioner: MR.T.S.VENKATARAMANA

Counsel for the Respondent No.1: MR.A.RAJASHEKAR REDDY (ASST.SOLICITOR GEN.)

Counsel for the Respondent No.2: MR.A.K.JAYAPRAKASH RAO

W.P.No.15843 of 2004

Between:

1 The General Manager, South Central Railway,

Rail Nilayam, Secunderabad
2 The Divisional Railway Manager, South Central

Railway Secunderabad Division, Secunderabad

..... PETITIONERS

AND

1 The Controlling Authority under the payment of

Gratuity Act, the Asst. Labour Commissioner,
(Central Hyderabad)
2 Sri Rukkiah Malkanna S/o Malkanna
R/o Kothagadi (Village & Post)
Vikarabad (Mandal), Ranga Reddy District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or order more particularly in the nature of Writ of Certiorari calling for the records relating to order in P.G. Application No. 48(39)/2002-E3/E5, dt 23-07-2004 passed by the Hon'ble Court, Hyderabad and quash the same as illegal, arbitrary capricious, null and void.

Counsel for the Petitioner: MR.T.S.VENKATARAMANA

Counsel for the Respondent No.1: MR.A.RAJASHEKAR REDDY (ASST.SOLICITOR GEN.)

Counsel for the Respondent No.2: MR. A.K.JAYAPRAKASH RAO

W.P.No.15844 of 2004

Between:

1 The General Manager, South Central Railway,
Rail Nilayam, Secunderabad.
2 The Divisional Railway Manager, South Central Railway,
Secunderabad Division, Secunderabad.

..... PETITIONERS

AND

1 The Controlling authority under the payment of

Gratuity Act The Asst. Labour Commissioner (Central), Hyd.
2 Sri Lingaiah Sivaiah S/o. Shivaiah
Employee, R/o. Chinthalpet (Village &Post),
Nawabpet Mandal, R.R.District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or order more particularly in the nature of Writ of Certiorari calling for the records relating to the order in P.G. Application No. 48(35)/2002-E3/E5, Dt. 23.07.2004 passed by the Hon'ble Court, Hyderabad and quash the same as illegal, arbitrary, capricious, null and void.

Counsel for the Petitioner: MR.T.S.VENKATARAMANA

Counsel for the Respondent No.1: MR.A.RAJASHEKAR REDDY (ASST.SOLICITOR GEN.)

Counsel for the Respondent No.2: MR. A.K.JAYAPRAKASH RAO

W.P.No.16330 of 2004

Between:

1 The General Manager, South Central Railway,
Rail Nilayam, Secunderabad.
2 The Divisional Railway Manager, South Central Railway,
Secunderabad Division, Secunderabad.

..... PETITIONERS

AND

1 The Controlling Authority under the payment of Gratuity Act,

and The Asst.Labour Commissioner,
(Central), Hyderabad.
2 Sri Pandu Ratnaiah, s/o Ratnaiah,
r/o Chinthalpet (Village & Post), Nawabpet (Mandal),

Ranga Reddy District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order more particularly in the nature of writ of certiorari calling for the records relating to the order in P.G.Application No.48(32)/2002-E3/E5, dt.23-07-2004 passed by the Hon'ble Court, Hyderabad and quash the same as illegal, arbitrary, capricious, null and void.

Counsel for the Petitioner: MR.T.S.VENKATARAMANA

Counsel for the Respondent No.1: MR.A.RAJASHEKAR REDDY (ASST.SOLICITOR GEN.)

Counsel for the Respondent No.2: MR. A.K.JAYAPRAKASH RAO

The Court made the following:

COMMON ORDER:

Heard both sides. At their request, the main writ petitions are taken up for disposal. Since, the petitioners and the first respondent in all the writ petitions are one and the same, and since common questions of law arise in all these petitions, all of them are taken up together for disposal.

The case of the petitioners is that the second respondents in all the writ petitions filed applications claiming gratuity on the ground that they were initially appointed as casual employees and subsequently, their services were regularized, and when they retired on reaching superannuation, the gratuity for the period covered under the casual employment was not paid. The said applications were contested by the petitioners, *inter alia,* on various grounds including the ground that the amount, to which the second respondent in each writ petition is entitled to, has already been paid, and however as per the applications made by them, they being the employees of the Railways, as per Sec-2(e) of the Payment of Gratuity Act, 1972 (for brevity 'the Act'), the first respondent-authority has no jurisdiction to entertain or allow the very claim as such. Further, it also stated that the second respondents in all the writ petitions are Railway Servants and fall well within the definition of Section-2 (34) of the Railways Act, 1989 and therefore, such claim cannot be made by them.

The main ground urged on behalf of the petitioners is that the very applications, which have been filed by the second respondents in all the writ petitions, claiming payment of difference of gratuity amount, are not maintainable before the first respondent-Controlling Authority under the Payment of Gratuity Act, 1972, on the ground that the provisions of the Act have no application, as the second respondents-claimants were the regular employees of the petitioners.

On contest, the first respondent has gone into the merits of their claims and also the plea as to the jurisdiction and allowed the same holding that the first respondent-authority has power to grant the gratuity in view of the Circular No.167/2000 dated 11-8-2000, wherein it is contemplated that any payment to the casual employees necessarily has to be made by the authorities situated under the aforesaid Act. Aggrieved thereof, the petitioners filed these writ petitions.

Sri T.S.Venkataramana, learned Standing Counsel appearing on behalf of the petitioners, strenuously contended that admittedly, the second respondents in all

the writ petitions being employees of the Railways could not have filed such applications and the first respondent has no powers to entertain the same.

These submissions were sought to be repelled by Sri A.Raja Sekhar Reddy, learned Standing Counsel appearing on behalf of the first respondent, stating that the claims of the second respondents in the writ petitions are not for the period commencing from the date of their regular appointment till the date of their retirement, but it is prior to such regular appointment, which covers only the period under casual employment and therefore, as per the aforesaid circular and the provisions of the Act, the first respondent has jurisdiction.

Sri A.K.Jayaprakash Rao, learned Counsel for the respondent No.2 submitted that the present claims pertain only to the period of the casual employment of the second respondents in all the writ petitions but not from the date of their regular appointment and beyond that, and therefore, their claims are justifiable.

Refuting the said submission, the learned Standing Counsel appearing for the petitioners sought to justify the petitioners' case on the ground that the entire amount has already been paid to the second respondents in all the writ petitions taking into account the mode as contemplated under Rule-70 of the Railway Services (Pension) Rules, 1993.

Having considered the submissions made on either side and also on perusal of the material available on record, the question that falls for consideration is as to whether the very claims made by the second respondents in all the writ petitions are maintainable.

There is no dispute to the fact that initially, the second respondents in all the writ petitions were employed as casual employees. Subsequently their services were regularized, and on reaching superannuation, they retired from the service.

Having regard to the fact that it is fairly submitted on behalf of the second respondents in all the writ petitions that their claims pertain only to the period of their casual employment, necessarily, it cannot be said that the first respondent has no power as such. However, these are all the matters, which can be properly appreciated and gone into in a regular appeal as provided under Section-7 of the Act.

For the foregoing reasons, I deem it appropriate to dispose of the writ petitions with liberty to the petitioners to prefer appeal within a period of thirty days from today. On filing such appeal, the appellate authority shall go into all these aspects including the correctness and the entitlement of the second respondents in all the writ petitions as to the difference of the gratuity amount claimed by them. It is also open for the petitioners herein to raise the plea of jurisdiction, which shall also be considered. However, it is made clear that if any claim pertains to the period commencing from the date of regular appointment and beyond that date, it is to be held that the first respondent has no power or jurisdiction to go into the same.

Subject to the above directions, the writ petitions are accordingly disposed of. There shall be no order as to costs.

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06-04-2005

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1 The Assistant Solicitor General, High Court Buildings,

Hyderabad. (OUT)

2 The General Manager, South Central Railway, Rail Nilayam,

Secunderabad.

3 The Divisional Railway Manager, South Central Railway,

Secunderabad Division, Secunderabad

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